

only and not for other parties of interest. FmHA or its successor agency under Public Law 103-354 inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on FmHA or its successor agency under Public Law 103-354's inspections in any manner whatsoever.

(c) *Execution of form.* The lender has executed and delivered to FmHA or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 449-35 or Form FmHA or its successor agency under Public Law 103-354 1980-38.

(d) *Plans for marketing.* The lender advises FmHA or its successor agency under Public Law 103-354 of its plans to sell or assign any part of the loan as provided in Form FmHA or its successor agency under Public Law 103-354 449-35.

(e) *Additional requirements.* See also appropriate subpart for additional requirements.

[48 FR 30947, July 6, 1983, as amended at 49 FR 28039, July 10, 1984; 50 FR 39885, Sept. 30, 1985; 51 FR 6710, Feb. 25, 1986; 55 FR 11134, Mar. 27, 1990; 58 FR 34307, June 24, 1993; 61 FR 67633, Dec. 23, 1996]

§ 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee, Contract of Guarantee and Assignment Guarantee Agreement.

(a) *Lender's Agreement.* If FmHA or its successor agency under Public Law 103-354 finds that all requirements have been met:

(1) Except for Farmer Programs loans, the lender and FmHA or its successor agency under Public Law 103-354 will execute Form FmHA or its successor agency under Public Law 103-354 449-35. The original will be delivered to FmHA or its successor agency under Public Law 103-354 and a signed duplicate original will be retained by the lender. There will be a Form FmHA or its successor agency under Public Law 103-354 449-35 executed for all loans and lines of credit guaranteed by FmHA or its successor agency under Public Law 103-354.

(2) For Farmer Programs loans, a new lender's agreement (Form FmHA or its successor agency under Public

Law 103-354 1980-38) does not need to be executed for each loan.

(i) Eligible lenders (non-CLP or non-ALP) must execute the most current version of Form FmHA or its successor agency under Public Law 103-354 1980-38. The original will be kept in the County Office operational file for that lender.

(ii) ALP lenders must have executed an ALP lender's agreement (attachments 1 or 2 of exhibit A of subpart B of this part). The original will be kept in the State Office with a copy in the County Office operational file.

(iii) CLP lenders must have executed the most current version of Form FmHA or its successor agency under Public Law 103-354 1980-38. The original will be kept in the State Office with a copy in the County Office operational file.

(iv) Outstanding guarantees will be governed by the provisions of the lender's agreement in effect at the time the guarantee was issued; therefore, all expired lender's agreements must be retained in the State and/or County Office operational file.

(3) In all cases, the lender's agreement will be executed no later than the time the Loan Note Guarantee or Contract of Guarantee is signed.

(b) *Loan Note Guarantee.* (1) Upon receipt of the Form FmHA or its successor agency under Public Law 103-354 449-35 or Form FmHA or its successor agency under Public Law 103-354 1980-38, and after all requirements have been met, FmHA or its successor agency under Public Law 103-354 will execute Form FmHA or its successor agency under Public Law 103-354 449-34. All original(s) will be provided to the lender and attached to the note(s). A conformed copy with copies of notes attached will be retained by FmHA or its successor agency under Public Law 103-354.

(2) In the event a lender has made a loan guaranteed by FmHA or its successor agency under Public Law 103-354 under previous regulations and has obtained a Form FmHA or its successor agency under Public Law 103-354 449-17, "Contract of Guarantee," the lender

may request the State Director to substitute a Loan Note Guarantee governed in all respects by these regulations for the previously issued Contract of Guarantee. The State Director will review the lender's written request for substitution of guarantees and may authorize the issuance of the new Loan Note Guarantee in exchange for the Contract of Guarantee. The lender will:

(i) Prepare and submit to FmHA or its successor agency under Public Law 103-354 a written request for such substituted guarantee.

(ii) Certify to FmHA or its successor agency under Public Law 103-354 that there is no adverse change in the borrower's financial situation, the collateral and terms of the loan remain the same as under the original guarantee, and the loan is in good standing.

(iii) Pay the required guarantee fee.

(iv) Certify to FmHA or its successor agency under Public Law 103-354 the outstanding principal amount of the loan.

(v) Execute Form FmHA or its successor agency under Public Law 103-354 449-35.

(3) If a lender has selected the multi-note system as provided in paragraph III A 2 of Form FmHA 449-35, or §1980.119 of subpart B of this part, a Loan Note Guarantee will be prepared and attached to each note the borrower issues. All the notes will be listed on Form FmHA or its successor agency under Public Law 103-354 449-34.

(4) If the lender requests a series of new notes to replace previously issued guaranteed notes as provided in paragraph III A (b) of Forms FmHA 449-35 or §1980.119 of subpart B of this part, the County Supervisor may reissue the new Loan Note Guarantee in exchange for the original Loan Note Guarantee.

(c) *Contract of Guarantee cases.* Upon receipt of the Form FmHA or its successor agency under Public Law 103-354 1980-38 and after all requirements have been met, FmHA or its successor agency under Public Law 103-354 will execute Form FmHA or its successor agency under Public Law 103-354 1980-27. An original will be provided to the lender and attached to the line of credit agreement. A conformed copy with a

will be retained by FmHA or its successor agency under Public Law 103-354.

(d) *Assignment Guarantee Agreement.* In the event the lender assigns the guaranteed portion of the loan to a holder(s) in accordance with the provision of the applicable subpart, the lender, holder, and FmHA or its successor agency under Public Law 103-354 will execute Form FmHA or its successor agency under Public Law 103-354 449-36. The original of the agreement(s) will be provided to the holder with conformed copy(s) to the lender and FmHA or its successor agency under Public Law 103-354. If the lender desires to assign a part(s) of the guaranteed loan to a holder(s), an Assignment Guarantee Agreement will be executed for each assigned portion. Attached to the Assignment Agreement will be a copy of the borrower's note(s) and a copy of the Loan Note Guarantee. Line of credit agreements evidencing advances made under lines of credit will not be sold or assigned except as provided in paragraph I.C.4. of Form FmHA or its successor agency under Public Law 103-354 1980-38 and §1980.119 of subpart B of this part.

(e) *Refusal to execute contract.* If FmHA or its successor agency under Public Law 103-354 determines that it cannot execute the Loan Note Guarantee or Contract of Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA or its successor agency under Public Law 103-354 449-13, "Denial Letter," of the reasons, and give the lender a reasonable period within which to satisfy FmHA or its successor agency under Public Law 103-354 objections. If the lender is unable to satisfy FmHA or its successor agency under Public Law 103-354 objections, then the lender will be informed of the appeal rights as set out in §1980.80 of this subpart. If the lender writes FmHA or its successor agency under Public Law 103-354 within the period allowed requesting additional time to satisfy the objections, FmHA or its successor agency under Public Law 103-354 may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections with the time allowed and otherwise complies with

these regulations, the guarantee will be issued.

(f) *Cancellation of obligations.* If the conditions for the loan or line of credit are rejected or cannot be met after completion of any appeal, FmHA or its successor agency under Public Law 103-354 will prepare and submit to the Finance Office, Form FmHA or its successor agency under Public Law 103-354 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation."

(g) *Payment of guarantee fee.* The lender will prepare and deliver a Form FmHA or its successor agency under Public Law 103-354 1980-19, "Guaranteed Loan Closing Report," for each loan or line of credit to be guaranteed and deliver the guarantee fee to the FmHA or its successor agency under Public Law 103-354 representative who concurrently delivers the Loan Note Guarantee(s) or Contract of Guarantee.

(h) *Authorized FmHA or its successor agency under Public Law 103-354 representatives to execute forms.* State Directors, District Directors, State Program Loan Chiefs, and County Supervisors are authorized to execute the Lender's Agreement (Form FmHA or its successor agency under Public Law 103-354 449-35 or Form FmHA or its successor agency under Public Law 103-354 1980-38), the Loan Note Guarantee, the Contract of Guarantee, and/or the Assignment Guarantee Agreement.

[48 FR 30947, July 6, 1983, as amended at 50 FR 39885, Sept. 30, 1985; 51 FR 6710, Feb. 25, 1986; 51 FR 29905, Aug. 21, 1986; 52 FR 6500, Mar. 4, 1987; 58 FR 34308, June 24, 1993; 61 FR 67633, Dec. 23, 1996]

§ 1980.62 Lender's sale or assignment of guaranteed portion of loan.

Any sale or assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in paragraph III of Form FmHA or its successor agency under Public Law 103-354 449-35 or § 1980.119 of subpart B of this part. Only guaranteed portions of loans not in payment default as set forth in the terms of the debt instruments may be sold. Should the lender know at the time the loan application is being prepared that it plans to sell or assign any part of the guaranteed portion of the loan as provided in Form FmHA or its

successor agency under Public Law 103-354 449-35 or § 1980.119 of subpart B of this part, the lender will provide this information with the application of FmHA or its successor agency under Public Law 103-354. Line of Credit agreements evidencing advances made under lines of credit will not be sold or assigned except as provided in paragraph I.C.4. of Form FmHA or its successor agency under Public Law 103-354 1980-38 and § 1980.119 of subpart B of this part.

[58 FR 34308, June 24, 1993]

§ 1980.63 Defaults by borrower.

(a) Refer to paragraph X of Form FmHA or its successor agency under Public Law 103-354 449-35 or I.D.6. of Form FmHA or its successor agency under Public Law 103-354 1980-38.

(b) FmHA or its successor agency under Public Law 103-354 may be required to purchase the guaranteed portion of a loan(s) from holder(s) in the event of default or servicing problems. The County Supervisor will coordinate any requests from holder(s) located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor. The County Supervisor will prepare a Form FmHA or its successor agency under Public Law 103-354 1980-37, "FmHA or its successor agency under Public Law 103-354 Purchase of a Guaranteed Loan Portion," for each holder(s) and follow the instructions on the reverse of the form.

[52 FR 6501, Mar. 4, 1987, as amended at 58 FR 34308, June 24, 1993; 61 FR 67633, Dec. 23, 1996]

§ 1980.64 Liquidation.

(a) *Reference.* Refer to paragraph XI of Form FmHA or its successor agency under Public Law 103-354 449-35 or paragraph I.D.6. of Form FmHA or its successor agency under Public Law 103-354 1980-38.

(b) *Lender's option.* If a lender has made a loan or line of credit guaranteed by FmHA or its successor agency under Public Law 103-354 under previous regulations and the lender concludes that liquidation of the guaranteed loan or line of credit is necessary because of one or more defaults or